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*Attorneys for Irving H. Picard, Trustee for the
Substantively Consolidated SIPA Liquidation of
Bernard L. Madoff Investment Securities LLC
and for the Estate of Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation
of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

Adv. Pro. No. 10-04321 (SMB)

HERBERT BARBANEL, ESTATE OF ALICE
BARBANEL, and HERBERT BARBANEL, in his
capacity as Personal Representative of the Estate of
Alice Barbanel,

Defendants.

STIPULATION AND ORDER FOR SUBSTITUTION OF DEFENDANT

WHEREAS, on November 26, 2010, Irving H. Picard (the “Trustee”), as trustee for the liquidation of the business of Bernard L. Madoff Investment Securities LLC under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa *et. seq.*, and the substantively consolidated estate of Bernard L. Madoff individually, filed the above-captioned avoidance action (the “Action”) in the United States Bankruptcy Court for the Southern District of New York (the “Court”) against defendants Herbert Barbanel (“Decedent”) and Alice Barbanel [Dkt. 1];

WHEREAS, Alice Barbanel died on April 29, 2014;

WHEREAS, the Trustee and Decedent entered into a stipulation whereby the Estate of Alice Barbanel and Herbert Barbanel, in his capacity as Executor of the Estate of Alice Barbanel, were substituted into this action on October 20, 2014 [Dkt. 43];

WHEREAS, the Trustee and Decedent entered into a stipulation whereby Decedent’s title in this case was amended from Executor of the Estate of Alice Barbanel to Personal Representative of the Estate of Alice Barbanel on October 23, 2014 [Dkt. 44];

WHEREAS, Decedent died on September 15, 2017;

IT IS THEREFORE MUTUALLY AGREED AND STIPULATED, by and between the Trustee and counsel for the Decedent, the Estate of Alice Barbanel and the Estate of Herbert Barbanel (collectively, the “Barbanel Estates”),¹ and Lewis Barbanel, as Personal Representative

¹ *In Re: Estate of Herbert Barbanel*, in the State of Florida, Palm Beach County Circuit Court, Probate Division, File No. 502017CP005060-XXXXMB.

of the Barbanel Estates (the “Incoming Personal Representative”), as follows:

1. The Estate of Herbert Barbanel and Incoming Personal Representative are hereby substituted into the Action as defendants in place of Decedent. The Incoming Personal Representative will now also serve in the capacity as Personal Representative of the Estate of Alice Barbanel. The complaint filed in the Action on November 26, 2010 (the “Complaint”) shall be deemed so amended.

2. Decedent’s responses, affirmative defenses and reservation of rights to the Complaint set forth in the Answer, filed August 13, 2015 [Dkt. 49], shall be deemed amended and treated as responses, affirmative defenses and reservation of rights by the Barbanel Estates and Incoming Personal Representative, and neither the Barbanel Estates nor Incoming Personal Representative shall have any further obligation to otherwise answer the Complaint.

3. Decedent’s responses to written discovery propounded by the Trustee shall be deemed as responses by the Barbanel Estates and the Incoming Personal Representative. The Incoming Personal Representative steps into the shoes of Decedent in all respects.

4. The Clerk of the Court is hereby directed to amend the caption in the Action to remove Decedent in his individual capacity and his capacity as Personal Representative of the Estate of Alice Barbanel and substitute the Estate of Herbert Barbanel and Incoming Personal Representative as defendants as reflected on Exhibit A to this stipulation.

5. Undersigned counsel for the Barbanel Estates and Incoming Personal Representative (i) expressly represent that she has the authority to accept service of the Complaint on behalf of the Barbanel Estates and Incoming Personal Representative; (ii) waives service of the summons and Complaint on behalf of the Barbanel Estates and Incoming Personal Representative; and (iii) hereby waives any defenses based on insufficiency of process or insufficiency of service of process of the summons and Complaint on behalf of the Barbanel Estates and Incoming Personal

Representative.

6. Except as expressly set forth herein, the parties to this stipulation reserve all rights and defenses they may have and agree that the entry into this stipulation shall not expand or affect any rights they do not otherwise have.

7. This stipulation may be signed by the parties in any number of counterparts, each of which when so signed shall be an original, but all of which shall together constitute one and the same instrument. A signed facsimile, photostatic, or electronic copy of this stipulation shall be deemed an original.

Dated: December 18, 2017
New York, New York

BAKER & HOSTETLER LLP

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Barbanel, in his capacities as Personal
Representative of the Estate of Alice Barbanel
and of the Estate of Herbert Barbanel*

SO ORDERED.

Dated: December 18, 2017

New York, New York

/s/ Stuart M. Bernstein

HONORABLE STUART M. BERNSTEIN
UNITED STATES BANKRUPTCY JUDGE

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ESTATE OF ALICE BARBANEL, ESTATE OF
HERBERT BARBANEL, AND LEWIS
BARBANEL, as Personal Representative of the
Estate of Alice Barbanel and the Estate of Herbert
Barbanel,

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

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